

REMARKS

Amendments to claims 1, 14, 32-36, 40, and 54 are for the purpose of clarifying what Applicants regard as the invention. No new matter has been added.

I. Claim Rejections under 35 USC § 103

Claims 1-9, 11, 14-58, 60-63, 65, and 66 stand rejected under 35 U.S.C. § 103 as allegedly being unpatentable over U.S. Patent No. 5,937,165 (Schwaller) in view of U.S. Patent No. 5,271,000 (Engbersen).

Claims 1, 14, 32-36, 40, and 54

A. Potential conflict in the data

Claim 1 has been amended to recite tracing the execution of the workload to identify a potential data conflict, *wherein the potential data conflict comprises a potential conflict in the data* (Emphasis Added). Claims 14, 32-36, 40, and 54 have been amended to recite similar limitations. Applicants agree with the Examiner that Schwaller does not disclose identifying potential data conflict.

Engbersen discloses routing conflict, which is not conflict in the data itself. This is because routing conflict may occur (e.g., when data from different sources are being routed through a same path at the same time) even though the data being transmitted has no conflict. On the flip side, routing conflict may not occur if the transmission paths of the data are not in conflict, but there may still be conflict in the data being transmitted. Thus, a disclosure of routing conflict does not mean that conflict in the data itself is also disclosed.

In the Advisory Action, the Examiner has pointed out that “conflict in the data” is allegedly a narrower version of “data conflict,” and that such feature is not recited in the claim. The amended claims now clarify that the potential data conflict comprises potential conflict in the data. Thus, Applicant believes that the amendments have rendered the § 103 rejection moot in view of the Advisory Action.

Since neither Schwaller nor Engbersen discloses or suggests potential data conflict that includes conflict in the data itself, nor do they disclose or suggest identifying such potential data conflict by tracing the execution of the workload, any *combination of them* cannot form the subject matter of the claims. Note that a prima facie case of a § 103 rejection cannot be

established if the combination of the cited references does not result in the claimed subject matter. For at least the foregoing reasons, Applicants submit that claims 1, 14, 32-36, 40, and 54, and their respective dependent claims, are allowable over Schwaller, Engbersen, and their combination, and requests that the § 103 rejection be withdrawn.

B. Executing the workload on a single node before the workload is sent to a plurality of nodes for execution

Claim 1 also recites *executing the workload on a single node* before the workload is sent to a plurality of nodes for execution, and tracing the execution of the workload *on the single node* (Emphasis Added). Claims 14, 32-36, 40, and 54 recite similar limitations. Schwaller is being relied upon for the alleged disclosure of the above limitations. In particular, according to the Office Action, column 9, lines 24-35, column 9, line 46 to column 10, line 39, figures 5 and 5A, and table 2 allegedly disclose the above limitations. Applicants respectfully disagree.

The cited passages of Schwaller disclose a test script that is sent to a “single endpoint node 14, 15.” Thus, the so-called “single endpoint node” actually refers to an endpoint having two nodes: i.e., nodes 14 and 15. In addition to nodes 14 and 15, the execution of the test script actually involves additional nodes: i.e., nodes 16, 17. This is evidenced by column 9, lines 29-32 of Schwaller, which states, “Endpoint 1 nodes 14, 15 then determine a partner endpoint node test protocol from the endpoint node specific test protocol and communicate that to endpoint 2 nodes 16, 17.” That the execution of the test script actually involves multiple nodes is further evidenced by the test scripts in table 2, which shows “endpoint 2” being involved in the execution of the test scripts. Thus, in Schwaller, the execution of the test script is not on a single node, but multiple endpoint nodes. Since Schwaller does not disclose or suggest executing a workload on a single node, Schwaller also does not disclose or suggest tracing the execution of the workload on the single node either.

Engbersen also does not disclose or suggest the above limitations, and is not being relied upon for the disclosure of the above limitations. Since neither Schwaller nor Engbersen discloses or suggests the above limitations, any *combination of them* cannot form the subject matter of the claims. Note that a prima facie case of a § 103 rejection cannot be established if the combination of the cited references does not result in the claimed subject matter. For these additional reasons, Applicants submit that claims 1, 14, 32-36, 40, and 54, and their respective

dependent claims, are allowable over Schwaller, Engbersen, and their combination, and requests that the § 103 rejection be withdrawn.

Claims 2, 37, 41, 55, 60, and 65

Claim 2 recites that the act of identifying potential data conflicts comprises predicting *how many* data conflicts will occur (Emphasis Added). Claims 37, 41, 55, 60, and 65 recite similar limitations. Schwaller is being relied upon for the alleged disclosure of the above limitations. In particular, according to the Office Action, column 9, line 46 to column 10, line 39 of Schwaller allegedly discloses the above limitations. However, as discussed in the previous response, the cited passage of Schwaller discloses test scripts that include SEND and RECEIVE commands, but there is nothing in Schwaller that discloses or suggests *predicting how many* data conflicts will occur. For these additional reasons, Applicants submit that claims 2, 37, 41, 55, 60, and 65 are allowable, and requests that the § 103 rejection be withdrawn for these claims.

Applicants respectfully note that the Office Action and the Advisory Action did not address the above presented argument from the previous response. Thus, should the Examiner be inclined to maintain the rejection for these claims, Applicants respectfully request that the Examiner point out where Schwaller discloses *predicting how many* potential data conflicts *will occur* so that Applicants can understand and evaluate the basis of the rejection.

Engbersen also does not disclose or suggest the above limitations, and is not being relied upon for the disclosure of the above limitations. Since both Schwaller and Engbersen fail to disclose or suggest the above limitations, any combination of them cannot result in the subject matter of the claims. For these additional reasons, Applicants submit that claims 2, 37, 41, 55, 60, and 65 are allowable, and requests that the § 103 rejection be withdrawn for these claims.

Also in response to the Examiner's statement in the Advisory Action that one cannot show non-obviousness by attacking references individually where the rejections are based on combinations of references, Applicants respectfully note that the argument presented in the previous response (and above) actually addressed the *combination* of references, not individual reference. As discussed, since neither Schwaller nor Engbersen discloses or suggests the above limitations recited in claims 2, 37, 41, 55, 60, and 65, any combination of them cannot result in the subject matter of the claims. Note that a prima facie case of a § 103 rejection cannot be

established if the combination of the cited references does not result in the claimed subject matter.

Claims 3, 38, 42, 56, 61, and 66

Claim 3 recites that the act of identifying potential data conflicts comprises *predicting types* of data conflicts (Emphasis Added). Claims 38, 42, 56, 61, and 66 recite similar limitations. Schwaller is being relied upon for the alleged disclosure of the above limitations. In particular, according to the Office Action, column 9, line 46 to column 10, line 39 of Schwaller allegedly discloses the above limitations. The cited passage of Schwaller discloses test scripts that include SEND and RECEIVE commands, and does not disclose or suggest *predicting types* of data conflicts. Applicants further note that Schwaller is silent with respect to categorizing data conflicts into *types*. Thus, Schwaller clearly does not disclose or suggest predicting a *type* of data conflict.

Applicants respectfully note that the Office Action and the Advisory Action did not address the above presented argument from the previous response. Thus, should the Examiner be inclined to maintain the rejection for these claims, Applicants respectfully request that the Examiner point out where Schwaller discloses *types* of data conflicts, and where Schwaller discloses *predicting types* of data conflicts so that Applicants can understand and evaluate the basis of the rejection.

Engbersen also does not disclose or suggest the above limitations, and is not being relied upon for the disclosure of the above limitations. Since both Schwaller and Engbersen fail to disclose or suggest the above limitations, any combination of them cannot result in the subject matter of the claims. For these additional reasons, Applicants submit that claims 3, 38, 42, 56, 61, and 66 are allowable, and requests that the § 103 rejection be withdrawn for these claims.

Also in response to the Examiner's statement in the Advisory Action that one cannot show non-obviousness by attacking references individually where the rejections are based on combinations of references, Applicants respectfully note that the argument presented in the previous response (and above) actually addressed the *combination* of references, not individual reference. As discussed, since neither Schwaller nor Engbersen discloses or suggests the above limitations recited in claims 3, 38, 42, 56, 61, and 66, any combination of them cannot result in

the subject matter of the claims. Note that a prima facie case of a § 103 rejection cannot be established if the combination of the cited references does not result in the claimed subject matter.

CONCLUSION

If the Examiner has any questions or comments regarding this response, please contact the undersigned at the number listed below.

To the extent that any arguments and disclaimers were presented to distinguish prior art, or for other reasons substantially related to patentability, during the prosecution of any and all parent and related application(s)/patent(s), Applicant(s) hereby explicitly retracts and rescinds any and all such arguments and disclaimers, and respectfully requests that the Examiner re-visit the prior art that such arguments and disclaimers were made to avoid.

The Commissioner is authorized to charge any fees due in connection with the filing of this document to Vista IP Law Group's Deposit Account No. **50-1105**, referencing billing number **OID-2000-017-01**. The Commissioner is authorized to credit any overpayment or to charge any underpayment to Vista IP Law Group's Deposit Account No. **50-1105**, referencing billing number **OID-2000-017-01**.

Respectfully submitted,

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By: /Gerald Chan/
Gerald Chan
Registration No. 51,541

VISTA IP LAW GROUP, LLP
1885 Lundy Ave., Suite 108
San Jose, California 95131
Telephone: (408) 321-8663 (Ext. 203)
Facsimile: (408) 877-1662